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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/828,312      | 04/21/2004  | Cheng-Yung Chen      | CHEN3660/EM         | 4222             |

23364 7590 05/18/2005  
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EXAMINER

JOHNSON, JERROLD D

ART UNIT PAPER NUMBER

3728

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/828,312

Applicant(s)

CHEN ET AL.

Examiner

Jerrold Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the valve, and the different shaped bladders must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

It is believed that the "valve" merely comprises an inlet, as that is what is shown.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure

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number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3,5-7 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Pharo 5,427,830.

Re claim 1, Pharo discloses in Figs. 4B and 4B1 an air packing bag, comprising: an upper sheet 117; a lower sheet 117A, 119, a valve mechanism formed within the upper sheet 117 and the lower sheet 117A and including an upper film, a lower film,

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and an intermediate heat-proof member 118; a plurality of bladders formed by the upper sheet and the lower sheet; a plurality of seals 115 each formed between two adjacent bladders by hot pressing; an air passage 114 formed across the bladders for being in communication therewith, the air passage being adjacent the valve mechanism and having an air valve at one end (like the present application, this air valve is not shown in detail, but it is inherently disclosed and comprises the air inlet structure where the air passage exits the edge the bag); and a plurality of coupling points formed on a surface of the upper sheet 116 adjacent the air passage.

Re claim 3, the air packing bag is formed of plastic.

Re claim 5, the coupling points are coupled to the upper sheet, the upper film, and the lower film.

Re claim 6, the bladder comprises a folding line. Note that the claim does not set forth that the bladder is in fact folded, or the location of the folding line. Each bladder of Pharo includes seams at its lateral edges where each bladder is attached to another bladder. It is submitted that, although not shown, folds can be easily performed at the seams 115, and accordingly, the seams of each bladder comprise a fold line for that bladder.

Re claim 7, the bladder is an elongated bladder.

Re claim 11, the bladder is a polygonal body (a rectangle).

Re claim 12, the fluid is either air or an inert gas.

Re claim 13, a fluid entrance or an escape path of the bladder is independent from the fluid entrance or the escape path of the other bladders.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

2. Claims 4 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pharo.

Pharo does not show rounded coupling points 116.

However, the rounding of welds in plastic welding is well known, and can be seen, for example, in Pharo in Fig. 5, where welds between the upper and lower sheets

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are both round and rounded. Rounded welds are also shown in Newman US 6,283,296, herein cited as extrinsic evidence.

Accordingly, it would have been obvious to one of ordinary skill in the art to modify the squared coupling points 116 by providing rounded ends such as is shown in the welds of Pharo in Fig. 5 so as to provide a distinct aesthetic shape that would be recognizable in the marketplace, as well as to provide an rounded edge, which are less prone to stress risers, particularly in welded joints.

Additionally, the Applicant has not disclosed that the rounded shape provides any advantage over other shapes, is used for any particular purpose, or solves any particular stated problem.

Accordingly, the rounded coupling shape would be an obvious choice of design to one of ordinary skill in the art so as to achieve an aesthetic that would be identifiable in the marketplace.

Pharo also only shows a rectangular shaped (polygonal) bladder body.

The Applicant has not disclosed that the claimed different shapes (round, prism, cube) provide any advantage, are used for any particular purpose, or solve any particular stated problem.

Accordingly, the different shapes (round, prism, cube) would be an obvious choice of design to one of ordinary skill in the art so as to achieve an aesthetic that would be identifiable in the marketplace.

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Additionally, also note *In re Dailey*, 2144 IV. B., which sets forth the Patent Office position on changes of shape where a particular configuration or shape has not been set forth as significant.

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pharo in view of Newman US 6,283,296.

Pharo does not disclose different sized bladders formed from unequally spaced seals.

Newman discloses in Fig. 7, and in col. 7, lines 29-36, specifically discusses the benefits of unequal spacing in seals so as to assist in the protective qualities of an air packing bag.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the air packing bag of Pharo by having unequal spacing of the seals.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Normos FR 2,291,114 discloses coupling the upper sheet, upper film and lower film.



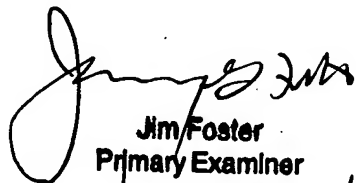
Normos FR 2,067,530 discloses in Fig. 5 coupling the upper sheet 1, upper film 3 and lower film 4.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerrold Johnson whose telephone number is 571-272-7141. The examiner can normally be reached on 9:30 to 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDJ

  
Jim Foster  
Primary Examiner  
Hu 3728 5/13/05